

Executive Summary – Enforcement Matter – Case No. 42747
Kinder Morgan Tejas Pipeline LLC
RN100217629
Docket No. 2011-1904-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Stratton Ridge Storage Facility, located approximately 0.7 mile northeast of the intersection of Farm-to-Market Road 523 and County Road 227, Clute, Brazoria County

Type of Operation:

Natural gas storage and compressor station

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 3, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,650

Amount Deferred for Expedited Settlement: \$2,530

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$10,120

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Kinder Morgan Tejas Pipeline LLC
RN100217629
Docket No. 2011-1904-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 14, 2011

Date(s) of NOE(s): August 12, 2011

Violation Information

1. Failed to submit the stack test report for three engines (Emission Point Numbers ("EPNs") C-1, C-2, and C-3), which were tested on April 15 and 16, 2009, within 60 days as required [30 TEX. ADMIN. CODE § 117.345(c)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to notify the TCEQ of compliance testing for engines (EPNs C-1, C-2, and C-3) as required. Specifically, the Respondent failed to make verbal notification at least 15 days prior to the test dates and written notification within 15 days after the the testing was completed [30 TEX. ADMIN. CODE § 117.345(b)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to conduct stack testing on three engines (EPNs C-1, C-2, and C-3) by March 31, 2007 [30 TEX. ADMIN. CODE § 117.9020(2)(C)(i) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to include all deviations in the deviation reports submitted for the reporting period of January 23, 2009 to July 22, 2009. Specifically, the semi-annual deviation report submitted on August 17, 2009, stated that there were no deviations, whereas the Respondent failed to report the stack testing deviations [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit No. O-00100/General Operating Permit No. 511, Site-wide requirements (b)(2), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:

- a. On April 15 and 16, 2009, conducted stack tests on the three engines [EPNs C-1, C-2, and C-3]; and
- b. On September 15, 2011, submitted the stack test report for the three engines.

Technical Requirements:

The Order will require the Respondent to:

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- a. Within 30 days, implement procedures to ensure that the TCEQ is notified of stack testing as required;
- b. Within 30 days, implement procedures to ensure that all deviations are reported in semi-annual deviation reports; and
- c. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Miriam Hall, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-1044; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Dennis Wamsley, Director, Operations, Kinder Morgan Tejas Pipeline
LLC, One Allen Center, 500 Dallas, Suite 1000, Houston Texas 77002
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	15-Aug-2011	Screening	12-Oct-2011	EPA Due	8-May-2012
	PCW	20-Oct-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Kinder Morgan Tejas Pipeline LLC		
Reg. Ent. Ref. No.	RN100217629		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	42747	No. of Violations	4
Docket No.	2011-1904-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$13,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **5.0%** Enhancement **Subtotals 2, 3, & 7** **\$650**

Notes Enhancement for one NOV with the same/similar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$1,000**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$1,696
Approx. Cost of Compliance \$15,200
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$12,650**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$12,650**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$12,650**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$2,530**

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$10,120**

Screening Date 12-Oct-2011

Docket No. 2011-1904-AIR-E

PCW

Respondent Kinder Morgan Tejas Pipeline LLC

Policy Revision 2 (September 2002)

Case ID No. 42747

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100217629

Media [Statute] Air

Enf. Coordinator Miriam Hall

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with the same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 12-Oct-2011

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PCW

Respondent Kinder Morgan Texas Pipeline LLC

Policy Revision 2 (September 2002)

Case ID No. 42747

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100217629

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 117.345(c)(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit the stack test report for three engines [Emission Point Nos. ("EPNs") C-1, C-2, and C-3], which were tested on April 15 and 16, 2009, within 60 days as required.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

822 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended for the one delinquent report.

Good Faith Efforts to Comply

10.0% Reduction

\$250

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The stack test report was submitted on September 15, 2011, and the NOE was issued on August 12, 2011.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$2,375

This violation Final Assessed Penalty (adjusted for limits) \$2,375

Economic Benefit Worksheet

Respondent Kinder Morgan Tejas Pipeline LLC
Case ID No. 42747
Reg. Ent. Reference No. RN100217629
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	15-Jun-2009	15-Sep-2011	2.25	\$23	n/a	\$23

Notes for DELAYED costs

The estimated cost of submitting the stack test report. The Date Required is the date the report was due, and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$23

Screening Date 12-Oct-2011

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PCW

Respondent Kinder Morgan Tejas Pipeline LLC

Policy Revision 2 (September 2002)

Case ID No. 42747

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100217629

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 117.345(b)(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to notify the Texas Commission on Environmental Quality of compliance testing for engines (EPNs C-1, C-2, and C-3) as required. Specifically, the Respondent failed to make verbal notification at least 15 days prior to the test dates and written notification within 15 days after the testing was completed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification				Percent
	Major	Moderate	Minor	
	x			25%

Matrix Notes: The Respondent failed to meet 100% of the rule requirement.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

835 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$5,000

Two single events are recommended for the verbal and written notifications.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
N/A	x		(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$238

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic Benefit Worksheet

Respondent Kinder Morgan Tejas Pipeline LLC
Case ID No. 42747
Reg. Ent. Reference No. RN100217629
Media Air
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	31-Mar-2009	30-May-2012	3.17	\$238	n/a	\$238

Notes for DELAYED costs

The estimated cost for implementing procedures to ensure that the required notifications are made for stack testing from the due date of the first notification to the date corrective measures are estimated to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$238

Screening Date 12-Oct-2011

Docket No. 2011-1904-AIR-E

PCW

Respondent Kinder Morgan Tejas Pipeline LLC

Policy Revision 2 (September 2002)

Case ID No. 42747

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100217629

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 117.9020(2)(C)(i) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to conduct stack testing on three engines (EPNs C-1, C-2, and C-3) by March 31, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could have been exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

747 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,000

Three single events are recommended (one for each engine).

Good Faith Efforts to Comply

25.0% Reduction

\$750

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The tests were completed on April 16, 2009, and the NOE was issued August 12, 2011.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,228

Violation Final Penalty Total \$2,400

This violation Final Assessed Penalty (adjusted for limits) \$2,400

Economic Benefit Worksheet

Respondent Kinder Morgan Tejas Pipeline LLC
Case ID No. 42747
Req. Ent. Reference No. RN100217629
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$12,000	31-Mar-2007	16-Apr-2009	2.05	\$1,228	n/a	\$1,228

Notes for DELAYED costs

The estimated cost of conducting three stack tests on the engines. The Date Required is the date the stack test was required, and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$12,000

TOTAL

\$1,228

Screening Date 12-Oct-2011

Docket No. 2011-1904-AIR-E

PCW

Respondent Kinder Morgan Tejas Pipeline LLC

Policy Revision 2 (September 2002)

Case ID No. 42747

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100217629

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit No. O-00100/General Operating Permit No. 511, Site-wide requirements (b)(2), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to include all deviations in the deviation reports submitted for the reporting period of January 23, 2009 to July 22, 2009. Specifically, the semi-annual deviation report submitted on August 17, 2009, stated that there were no deviations, whereas the Respondent failed to report the stack testing deviations.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

The Respondent failed to comply with more than 70% of the rule requirement.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

782 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$2,500

One single event is recommended for one report.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$208

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent Kinder Morgan Tejas Pipeline LLC

Case ID No. 42747

Req. Ent. Reference No. RN100217629

Media Air

Violation No. 4

Percent Interest 5.0 **Years of Depreciation** 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	21-Aug-2009	30-May-2012	2.78	\$208	n/a	\$208

Notes for DELAYED costs

The estimated cost for implementing procedures to ensure that all deviations are reported from the due date of the incomplete report to the date corrective measures are estimated to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$208

Compliance History

Customer/Respondent/Owner-Operator:	CN603437849	Kinder Morgan Tejas Pipeline LLC	Classification: AVERAGE	Rating: 3.98
Regulated Entity:	RN100217629	STRATTON RIDGE STORAGE FACILITY	Classification: AVERAGE	Site Rating: 0.17
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	BL0675H	
	AIR OPERATING PERMITS	PERMIT	100	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BL0675H	
	AIR NEW SOURCE PERMITS	AFS NUM	4803900133	
	POLLUTION PREVENTION PLANNING	ID NUMBER	P07191	
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	BL0675H	
Location:	Approximately 0.7 mile northeast of the intersection of Farm-to-Market Road 523 and County Road 227, Clute, Texas			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	October 11, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 11, 2006 to October 11, 2011			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Miriam Hall Phone: (512) 239-1044

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	02/04/2008	(538572)
2	08/22/2007	(573247)
3	08/06/2008	(680039)
4	03/31/2010	(794036)
5	08/12/2011	(922730)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	02/04/2008 (538572)	CN603437849
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 101, SubChapter A 101.10(e) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) FOP O-100/GOP 511 SWR (b)(38)(E) OP	
Description:	The RE failed to submit the 2004 Emission Inventory by March 31, 2005.	
- F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KINDER MORGAN TEJAS
PIPELINE LLC
RN100217629**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-1904-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Kinder Morgan Tejas Pipeline LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a natural gas storage and compressor station located approximately 0.7 mile northeast of the intersection of Farm-to-Market Road 523 and County Road 227 in Clute, Brazoria County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 17, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twelve Thousand Six Hundred Fifty Dollars (\$12,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Ten Thousand One Hundred Twenty Dollars (\$10,120) of the administrative penalty and Two Thousand Five Hundred Thirty Dollars (\$2,530) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On April 15 and 16, 2009, conducted stack tests on the three engines [Emission Point Nos. ("EPNs") C-1, C-2, and C-3]; and
 - b. On September 15, 2011, submitted the stack test report for the three engines.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit the stack test report for three engines (EPNs C-1, C-2, and C-3), which were tested on April 15 and 16, 2009, within 60 days as required, in violation of 30 TEX. ADMIN. CODE § 117.345(c)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 14, 2011.
2. Failed to notify the TCEQ of compliance testing for engines (EPNs C-1, C-2, and C-3) as required, in violation of 30 TEX. ADMIN. CODE § 117.345(b)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 14, 2011.

Specifically, the Respondent failed to make verbal notification at least 15 days prior to the test dates and written notification within 15 days after the testing was completed.

3. Failed to conduct stack testing on three engines (EPNs C-1, C-2, and C-3) by March 31, 2007, in violation of 30 TEX. ADMIN. CODE § 117.9020(2)(C)(i) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 14, 2011.
4. Failed to include all deviations in the deviation reports submitted for the reporting period of January 23, 2009 to July 22, 2009, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit No. O-00100/General Operating Permit No. 511, Site-wide requirements (b)(2), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 14, 2011. Specifically, the semi-annual deviation report submitted on August 17, 2009, stated that there were no deviations, whereas the Respondent failed to report the stack testing deviations.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Kinder Morgan Tejas Pipeline LLC, Docket No. 2011-1904-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement procedures to ensure that the TCEQ is notified of stack testing as required;
 - b. Within 30 days after the effective date of this Agreed Order, implement procedures to ensure that all deviations are reported in semi-annual deviation reports; and

- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

3/2/12

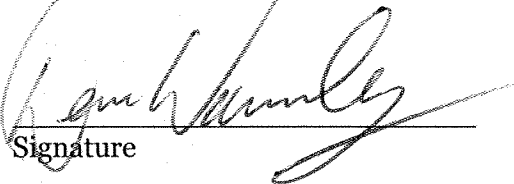
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

12/5/2011

Date

DENNIS WAMSLEY

Name (Printed or typed)
Authorized Representative of
Kinder Morgan Tejas Pipeline LLC

OPS DIR

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.